

**Senate Study Bill 1047 - Introduced**

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE  
ON COMMERCE BILL BY  
CHAIRPERSON McCOY)

**A BILL FOR**

1 An Act establishing data security compliance requirements  
2 in relation to payment card transactions, and providing  
3 penalties.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 715C.2, subsection 8, Code 2013, is  
2 amended by striking the subsection.

3 Sec. 2. NEW SECTION. 715C.3 **Personal information —**  
4 **business duty to safeguard — remedies.**

5 1. Any person who accepts a payment card in connection  
6 with transactions occurring in the ordinary course of business  
7 has a duty to comply with or adhere to payment card industry  
8 data security standards. A financial institution may bring an  
9 action against a person who is subject to a breach of security  
10 if the person is found at the time of the breach to have engaged  
11 in or violated such data security standards.

12 2. In an action commenced by a financial institution  
13 to recover damages pursuant to subsection 1, the financial  
14 institution shall submit in writing a request that the person  
15 alleged to have violated this section certify compliance with  
16 the standards pursuant to a payment card industry-approved  
17 independent auditor or another person authorized to issue such  
18 a certification. A presumption of compliance shall exist if  
19 a person contracts for or utilizes the services of a third  
20 party to collect, maintain, or store personal information used  
21 in connection with a payment card, and contractually requires  
22 that the third party ensure compliance with the standards on  
23 an ongoing basis.

24 3. *a.* A financial institution prevailing in an action for  
25 failure to safeguard personal information against a breach  
26 of security may recover actual damages arising from the  
27 failure. Actual damages shall include any costs incurred by  
28 the financial institution in relation to the following:

29 (1) Cancellation or reissuance of a payment card affected  
30 by the security breach.

31 (2) Closing of a deposit, transaction, share draft, or other  
32 account affected by the security breach and any action to stop  
33 payment or block a transaction with respect to the account.

34 (3) Opening or reopening of a deposit, transaction, share  
35 draft, or other account affected by the security breach.

1 (4) Refunding or crediting made to an account holder to  
2 cover the cost of any unauthorized transaction relating to the  
3 breach of security.

4 (5) Notification to account holders affected by the breach  
5 of security pursuant to section 715C.2.

6 *b.* Reasonable attorney fees and costs shall be awarded to  
7 the prevailing party, with the exception that an award shall  
8 not be made to a person who failed to submit certification as  
9 required in subsection 2.

10 *c.* An action pursuant to this section shall not be commenced  
11 against any person other than a person who has been found to  
12 have violated this section.

13 **Sec. 3. NEW SECTION. 715C.4 Penalties.**

14 1. A violation of this chapter is an unlawful practice  
15 pursuant to section 714.16 and, in addition to the remedies  
16 provided to the attorney general pursuant to section 714.16,  
17 subsection 7, the attorney general may seek and obtain an  
18 order that a party held to violate this chapter pay damages  
19 to the attorney general on behalf of a person injured by the  
20 violation.

21 2. The rights and remedies available under this chapter are  
22 cumulative to each other and to any other rights and remedies  
23 available under the law.

24 **EXPLANATION**

25 This bill establishes data security compliance requirements  
26 in relation to payment card transactions.

27 Current provisions in Code chapter 715C prescribe consumer  
28 notification requirements applicable to security breaches  
29 involving consumer personal information used in the course  
30 of a person's business, vocation, occupation, or volunteer  
31 activities. This bill establishes requirements and remedies  
32 available to a financial institution in the event a security  
33 breach occurs and a person who accepts a payment card in  
34 connection with transactions occurring in the ordinary course  
35 of business has failed to comply with or adhere to payment card

1 industry data security standards.

2 The bill provides that a financial institution may bring  
3 an action against a person who is subject to a breach of  
4 security if the person is found at the time of the breach  
5 to have engaged in or violated data security standards. The  
6 financial institution shall be required to submit in writing a  
7 request that the person alleged to have violated the standards  
8 certify compliance with the standards pursuant to a payment  
9 card industry-approved independent auditor or another person  
10 authorized to issue such a certification. The bill states that  
11 a presumption of compliance shall exist if a person contracts  
12 for or utilizes the services of a third party to collect,  
13 maintain, or store personal information used in connection with  
14 a payment card, and contractually requires that the third party  
15 ensure compliance with the standards on an ongoing basis.

16 The bill provides that a financial institution prevailing in  
17 an action for failure to safeguard personal information against  
18 a breach of security may recover actual damages, as specified  
19 in the bill, arising from the failure.

20 The bill makes existing unlawful practice penalty provisions  
21 for violations of Code section 715C.2 also applicable to data  
22 security compliance violations.